IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WA.No. 1758 of 2007
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*(AGAINST THE JUDGEMENT IN **WPC.9613/2007** Dated 22/03/2007)*

APPELLANT/PETITIONER:

M/S. BHIMA JEWELS,
M.G.ROAD, ERNAKULAM.
REPRESENTED BY ITS MANAGING PARTNER
B.BINDU MADHAV.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)
ADV. SRI.K.M.FIROZ

RESPONDENT/RESPONDENT:

THE ASSISTANT COMMISSIONER(ASSESSMENT)
SPECIAL CIRCLE-II, COMMERCIAL TAXES,
ERNAKULAM.

BY SR. GOVERNMENT PLEADER SHRI MUHAMMED RAFIQ.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1758 OF 2007

Dated this the 23rd July, 2007

JUDGMENT

H.L.DATTU, C.J.

Questioning the correctness or otherwise of the orders passed by the learned single Judge in W.P.(C) No.9613 of 2007, dated 22nd March, 2007, the petitioner is before us in this Writ Appeal.

2. The appellant/petitioner questioned the re-assessment order passed by the assessing authority for the assessment year 2000-01, dated 28th February, 2007. The learned single Judge is of the view that, if for any reason, the petitioner is aggrieved by the said re-assessment order, he can definitely question the same before the First Appellate Authority.

3. Admittedly, what is questioned by the appellant/petitioner is only the re-assessment order passed by the assessing authority. In our opinion, if for any reason, the appellant is aggrieved by the said re-assessment order, he has a right of appeal. The appeal remedy provided in the Act is not only an effective, but also an efficacious remedy. Without resorting to the appeal remedy, the appellant could not have approached this Court by filing the Writ Petition, inter alia, questioning the re-assessment order passed by the assessing authority for the assessment year 2000-01. Keeping that aspect of the matter, in our view, the learned single Judge has rightly rejected

the Writ Petition. We do not see any error in the orders passed by the learned single Judge which would call for our interference. Therefore, the Writ Appeal requires to be rejected and it is rejected. However, liberty is reserved to the appellant/petitioner, if he so desires, to question the correctness or otherwise of the re-assessment order passed by the assessing authority for the assessment year 2000-01, before the First Appellate Authority within a month's time from today. If such an appeal is filed within the time prescribed, the First Appellate Authority shall consider the appeal in accordance with law, without reference to the period of limitation. Liberty is also reserved to the appellant/petitioner to raise all his contentions which are raised by him in the Writ Petition, before the First Appellate Authority.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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